

REMARKS

Applicant has hereby amended the claims in this application and submits the following remarks in response to the Office Actions dated May 2, 2006, and January 10, 2007, wherein the Examiner stated the Applicant's Amendment and Response dated October 31, 2006, was not fully responsive.

With regard to the Examiner's Office Action of January 10, 2007, the Applicant respectfully submits that the position of the Examiner has been overcome by the foregoing replacement claim amendments.

Applicant has currently amended independent claims 18 and 32, wherein Applicant has removed the previously added phrase "for shipping a plurality of implements" from the preambles of these independent claims and reinserted the phrase "the steps of". Also, Applicant has deleted from the last line of each of these independent claims the previously added word "shipping" and reinserted the original term "sending". As a result, Applicant has returned each of these two independent claims back to their original state wherein the preambles were "a method" and the last step of the method was "sending" rather than "shipping" "the shipping container to a destination."

In addition, Applicant has also withdrawn without prejudice independent claim 60 and the corresponding dependent claims 61-67, thereby removing what the Examiner has identified as objectionable for independent claims 18 and 32, the "shipping" focus of the preamble and "shipping" step of the method. As a result, Applicant, hereby submits that the reasons for the Examiner stating the Applicant's reply dated October 31, 2006, was not fully responsive, have now been removed.

Currently, claims 18-23, 25-33, 35-42 and 44 and 45 are pending. Previously, claims 1-17 and claims 46-59 had been withdrawn from prosecution without prejudice. Claims 18 and 32 are the two pending independent claims. As was recited in the prior Office Action, claims 18-29 and 32-43 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,581,776 to Zatkoff (hereinafter “Zatkoff”). Claims 30, 31, 44 and 45 stand rejected under 35 U.S.C. § 103 as being unpatentable over Zatkoff in view of U.S. Pat. No. 3,359,929 to Carlson.

Applicant in amending the claims herein has not submitted any new matter. The limitation, for example, reciting “two or more of the implements comprising different working ends,” can be found at the bottom of page 8 of the originally filed specification. Virtually all other limitations were set forth in Applicants’ originally filed claims.

Independent claims 18 and 32, are patentably distinguishable from Zatkoff. Briefly, Zatkoff teaches a portable kit for storing cleaning implements comprising telescoping handles. Zatkoff fails to meet each and every limitation recited by Applicants’ independent claims. In particular, Zatkoff neither teaches nor suggests “providing a plurality of shipping containers, each shipping container including a lengthwise dimension no greater than about 48.0 inches,” as recited by independent claim 18. Nor does Zakoff teach or suggest a plurality of implements capable a first length within the range of about 40 inches to about 48 inches,” as recited by independent claim 32.

Applicant also disputes whether Zakoff teaches: (1) placing in a shipping container a plurality of implements including substantially the same overall length; or (2) shipping such a shipping container to a destination. Although the Office Action, at page 3, asserts that Zatkoff teaches a shipping container including implements of substantially the same length, the Office Action impermissibly relies on Zatkoff’s figures. Importantly, “it is well established that patent

drawings do not define the precise proportions of the elements and may not be relied upon to show particular sizes if the specification is completely silent on the issue.” *Hockerson-Halberstadt, Inc. v. Avia Group Int’l.*, 222 F.3d 951, 956 (Fed. Cir. 2000). As the MPEP explains, “when the reference does not disclose that the drawings are to scale and is silent as to dimensions, arguments based on measurement of the drawing features are of little value.” M.P.E.P. § 2125. Here, Zatkoff does not indicate that the figures are to scale and is completely silent concerning the dimensions of the implements within the housing of the kit. Accordingly, Zatkoff cannot teach the important dimension-based limitations recited by Applicants’ independent claims.

Independent claims 18 and 32 therefore, are allowable over Zatkoff. Since all pending dependent claims depend on an allowable base or intervening claim, these dependent claims are also allowable.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that all pending claims are in condition for allowance. Favorable action is earnestly solicited.

Respectfully submitted,

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By: /Thomas J Ring/
 Thomas J. Ring
 Reg. No. 29,971
 Wildman, Harrold, Allen & Dixon
 225 W. Wacker Drive
 Chicago, IL 60606
 Ph. (312) 201-2524
 Fax (312) 201-2555